



STATE OF UTAH
CONTRACT AMENDMENT

AMENDMENT # 2 To CONTRACT # AR1471

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract by and between the State of Utah, WSCA Administrator referred to as STATE and, Extreme Networks, Inc. referred to as CONTRACTOR.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

1. Contract period:

January 15, 2003 (original starting date)

May 31, 2004 (current ending date)

May 31, 2006 new ending date

2. Contract amount:

_____ (current contract amount)

_____ (amendment amount)

- 0 - new contract amount
(add current amount to amendment amount)

3. Other changes: (attach other sheets if necessary):

None

4. Effective Date of Amendment: As soon as both parties sign.

All other conditions and terms in the original contract and previous amendments remain the same.

IN WITNESS WHEREOF, the parties sign and cause the amendment to be executed.

CONTRACTOR

[Signature] 3-1-04
Contractor's signature Date
Type or Print Name and Title

STATE

[Signature] 3/4/04
Douglas G. Richins
Director, Division of Purchasing Date

(DP-4 Revision 1/5/2000)

Approved
Extreme Networks, Inc.
Legal Dept.
By: [Signature]

STATE OF UTAH
STATEWIDE CONTRACT AR1471

1. **CONTRACTING PARTIES:** This Statewide Contract is between the **Division of Purchasing and General Services**, an agency of the State of Utah, and the following Contractor:

Extreme Networks, Inc.

Name

3585 Monroe Street

Address

Santa Clara CA 95051

City

State

Zip

Federal Tax ID# 770430270

Vendor # 94831A

Commodity Codes: 20464, 20621, 20623

Vendor Contact Person: Scott Nelson

Vendor Phone #: (206) 381-2165

Vendor Fax #: (408) 579-3000

Vendor email address: snelson@extremenetworks.com

2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this Contract is to provide:
Data Communications Equipment and Associated OEM Maintenance & Training
3. **CONTRACT PERIOD:** Effective date January 15, 2003 Termination date May 31, 2004 unless terminated early or extended in accordance with the terms and conditions of this Contract.
Renewal option: Renewable for one or two year terms up to four additional years
4. **PRICING AS PER ATTACHMENT A (Addendum 1)**
PAYMENT TERMS: Net 30
DAYS REQUIRED FOR DELIVERY: 30 days
MINIMUM ORDER: None
FREIGHT TERMS: F.O.B. Destination, Freight Prepaid
5. **ATTACHMENT A:** Addendum 1
ATTACHMENT B: WSCA Standard Terms and Conditions
ATTACHMENT C: Exhibits 1 & 2
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.
6. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**
a. All other governmental laws, and regulations applicable to the goods and/or services authorized by this Contract.
b. Utah State Procurement Code, Procurement Rules, RFP LW1907, and Contractor's proposal response to RFP LW1907 dated 07-17-01.

IN WITNESS WHEREOF, the parties sign and cause this Contract to be executed.

CONTRACTOR

STATE OF UTAH

Harold L. Covert

Contractor's signature

Harold L. Covert, Vice President
Type or Print Name and Title and CFO

1/30/03
Date

Douglas G. Richins

Douglas G. Richins
Director, Division of Purchasing

FEB 03 2003
Date

Approved
Extreme Networks, Inc.
Legal Dept.
[Signature]

ATTACHMENT A ADDENDUM 1

This Addendum serves to clarify terms and conditions of the Contract between the State of Utah, referred to as STATE, and Extreme Networks, Inc., referred to as Contractor. The State of Utah is acting as the Lead State for the procurement process resulting in **WSCA Contracts for Data Communications Equipment, associated OEM Maintenance and Training.**

A. Manufacturer Product Line(s)

This Contract authorizes the Contractor to provide the following manufacturer's Data Communications Equipment, Maintenance, and Training, as listed by category. No other equipment or maintenance will be covered under this Contract, unless identified in an amendment to the Contract. Products covered under this agreement are:

Routers: N/A
Switches: Extreme
LAN/WAN Wireless: N/A
CSU/DSU: N/A

B. State of Utah/WSCA Contract Manager

Debbie Gundersen
State of Utah
Division of Purchasing and General Services
State Office Building, Capitol Hill
Room 3150
Salt Lake City, UT 84114-1061

email: dgundersen@utah.gov
Voice: (801) 538-3150
Fax: (801) 538-3882

C. Remittance Address

Extreme Networks, Inc.
Dept. LA21921
Pasadena, CA 91185-1921

D. Special Terms and Conditions

The parties agree to amend the terms and conditions as follows:

1. Order of Precedence
The order of precedence for the Contract terms will be as follows:
 1. Addendum 1
 2. WSCA Terms and Conditions
 3. Contractor's Proposal Response to RFP LW1907
 4. RFP LW1907
2. Included Documents
The documents listed in Number 1 are included in the Contract. It is agreed that any reference to the "Entire Agreement" includes these documents.

3. Public Information

The Contract, including the price lists and the Response to the RFP, will be considered public documents and will be subject to government records policies in each state. The Contractor gives the STATE express permission to make copies of the information specified to provide to other STATE government entities that may use the Contract, and to the public, in accordance with general STATE policies, including copies of said information that may be identified as confidential, proprietary, or copyrighted.

4. Arbitration

The STATE will not accept mandatory, binding arbitration. If there are any references to binding arbitration in the Contractor's Response to the RFP, they will be null and void. The parties may agree, on a case by case basis, to voluntary arbitration to resolve Contract issues.

5. Contract Period

The Contract period, including renewal options, is listed on the STATE OF UTAH - Statewide Contract cover page. Renewals will be agreed to upon written authorization from both parties. All references to automatic renewals will be null and void.

6. Governing Law

This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the State of Utah. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

7. Revisions to the WSCA Standard Terms and Conditions

The WSCA Standard Terms and Conditions will be revised as follows:

A. Item 10 will be replaced with the following:

PATENTS, COPYRIGHTS, ETC: The Contractor shall defend, indemnify, and hold the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities harmless against any and all damages, costs, liabilities, expenses (including reasonable attorneys' fees) and settlement amounts incurred in connection with any suit, claim, or action by any third party alleging that the Products furnished and used within the scope of this Agreement infringe any U.S. patent or U.S. copyright. The foregoing indemnity obligation shall not extend to any claims of infringement arising out of: (i) a modification of the Products by anyone other than Contractor; (ii) a combination of the Products with any third party software or hardware where such combination is the cause of such infringement; or (iii) the use of a version of Products other than the then-current version if infringement would have been avoided by the use of the then-current version made available to the WSCA, the Participating States and/or the Purchasing Entities. Contractor's obligation to indemnify hereunder is subject to the WSCA, the Participating States and/or the Purchasing Entities (a) giving Contractor prompt written notice of any such claim; (b) giving Contractor sole control over the defense and settlement of any such

claim; (c) providing full cooperation for the defense of any such claim, at Contractor's expense; and (d) not entering into any settlement or compromise of any such claim without Contractor's prior written approval. Upon notice of an alleged infringement or if in Contractor's opinion such a claim is likely, Contractor shall have the right, at its sole option and expense, to procure a license to the relevant Products or modify the Products or substitute other non-infringing hardware or software with similar operating capabilities; or if Contractor determines that the foregoing is not reasonable, Contractor may refund the fees paid by the WSCA, the Participating States and/or the Purchasing Entities for the infringing copies of the Products upon the WSCA, the Participating States and/or the Purchasing Entities return of such Products to Contractor. THIS SECTION ("PATENTS, COPYRIGHTS, ETC.") SETS FORTH CONTRACTOR'S SOLE AND EXCLUSIVE LIABILITY AND WSCA, the Participating States and/or the Purchasing Entities SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT BY THE PRODUCTS OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

B. Item 14, Defaults and Remedies, will be replaced with the following:

A. Any of the following shall constitute cause to declare the Contract or any order under this Contract in default:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this Contract not cured within thirty (30) days after the defaulting party receives written notice thereof;
- (3) Bankruptcy, insolvency or receivership of the other party.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

- (1) Exercise any remedy provided by law or equity;
- (2) Terminate the Contract or any portion thereof, including any orders issued against the Contract;
- (3) In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations for a period no greater than thirty six (36) months.

C. Item 18, Hold Harmless, will be replaced with the following:

HOLD HARMLESS: Each Party shall release, defend, indemnify and hold the other party, as well as the officers, agents and employees of the parties, harmless, from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from negligence or intentionally wrongful acts or omissions of the indemnifying party, its employees or subcontractors when the indemnifying party is fulfilling its obligations hereunder.

Limitation of Liability.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, EACH PARTY'S TOTAL LIABILITY ARISING FROM OR IN RELATION TO THIS AGREEMENT OR THE PRODUCTS AND SERVICES SHALL BE LIMITED TO THE TOTAL AMOUNT PAID OR PAYABLE TO VENDOR UNDER THIS AGREEMENT IN THE MOST RECENT FULL CALENDAR YEAR PRECEDING EITHER PARTY'S INITIAL NOTICE OF ANY CLAIM OR POTENTIAL CLAIM HEREUNDER. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO DAMAGES ARISING FROM DEATH OR PERSONAL INJURY.

D. Item 21, Delivery, will be replaced with the following:

DELIVERY: The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until delivery of Products to Purchasing Entity's receiving dock. Contractor shall use reasonable efforts to make deliveries in a timely manner of purchase orders accepted by Contractor, but Contractor shall not be liable for any damages to Purchasing Entity or any other person for Contractor's failure to fill any orders or for any delay in delivery caused by circumstances beyond Contractor's reasonable control. Products shall be deemed accepted by Purchasing Entity upon delivery.

The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge

E. Item 22, Warranty, will be replaced with the following:

WARRANTY: As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The Contractor agrees to warrant that all Products (including hardware, firmware, and/or software Products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this Contract for the period specified below, unless otherwise specified and mutually agreed upon elsewhere in this Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this Contract unless otherwise specified and mutually agreed upon elsewhere in this Contract. In general, the Contractor warrants that: (1) the hardware portion of the Product will perform substantially in accordance with the Hardware Specifications for a period of one (1) year from date of shipment; (2) the software portion of the Product will perform substantially in accordance with the Software Specifications for a period of ninety (90) days following Customer's receipt of each Product unit (3) the Product will be suitable for the ordinary purposes for which such Product is used, (4) the Product has been properly designed and manufactured. Remedies available to the PURCHASING ENTITY include the following: in the event of a failure of a Product to perform substantially in accordance with the Specifications, as applicable, during the warranty periods described above, the Contractor will at its option, (i) repair the Product, (ii) replace the Product (at no charge to the purchasing entity) whose nonconformance is discovered and made known to the Contractor

in writing, or (iii) refund the full amount of any payments that have been made for such Product (following the Purchasing Entity's return of the Product). The foregoing sets forth Customer's sole and exclusive remedies for a breach of the above limited warranties.

F. Item 27, Inspections, will be replaced with the following:

INSPECTIONS: Goods furnished under this Contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in non-compliance with the Product Specifications, the Purchasing Entity shall promptly return defective Products to Contractor in accordance with the Return Material Authorization process described in this Section.

Return Material Authorization: Except in those cases where a Product is replaced on-site, Purchasing Entity shall promptly return defective Products to Contractor in accordance with the process described in this Section. A Return Material Authorization ("RMA") number, obtained by Purchasing Entity from Contractor, must accompany any and all Products returned to Contractor by Purchasing Entity. Contractor may refuse any Product not accompanied by an RMA number. Refused shipments will be returned to Purchasing Entity via collect freight. Products returned for repair must be accompanied with a detailed description of the Product failure. Replacement Products will be warranted for the remaining warranty period of the original Product, if any, as specified in the Agreement. If Purchasing Entity fails to ship to Contractor a defective Product within ten (10) business days of Purchasing Entity's receipt of the replacement unit for such Product, Contractor will invoice Purchasing Entity the purchase price for such Product based on the current Contract price and Purchasing Entity shall pay such invoice in accordance with the payment terms of the Contract. The transportation charges for all Products and parts returned to Contractor shall be borne by Purchasing Entity. Contractor will pay the transportation charges involved in the return of warranted Products to Purchasing Entity.

If Contractor is unable or unwilling to correct such goods within a time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part.

G. Item 29, Force Majeure, is replaced with the following:

FORCE MAJEURE: Neither party to this Contract will have the right to claim damages or terminate this Contract as a result of the other party's delay in performance due to circumstances beyond its reasonable control, including, but not limited to labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, components, supplies, raw materials, fire, riot, insurrection, epidemic, governmental action, acts of God and/or war which is beyond that party's reasonable control.

H. Any additional changes listed by the Contractor in the Response to the RFP will be null and void.

8. Revisions to Contractor's Response to the RFP

Note: The changes below may be listed in multiple locations throughout the response. The changes will apply to all instances of similar terms.

The Contractor's Response to the RFP will be revised as follows:

A. Add the following provision to the Contract:

Consequential Damages Waiver. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR THIRD PARTIES FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS AND LOST SAVINGS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, TORT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE, WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. Some jurisdictions do not allow the exclusion of consequential damages, so such exclusion may not apply to Purchasing Entity.

B. The Extreme Confidentiality Agreement will be replaced with the revised Confidentiality Agreement which is attached as Exhibit 1 to this Contract.

C. The Extreme Support Program Agreement will be replaced with the revised Support Program Agreement which is attached as Exhibit 2 to this Contract.

9. State of Utah Only Requirement

Attachment C from the RFP will apply to the State of Utah only. This term is as follows:

E-PROCUREMENT: The State of Utah has awarded an e-procurement system Contract that has a transaction fee of 1% per order with a ceiling of \$500 for any one order of products/services. There are expected cost savings to the Contractors with implementation of the system. The successful vendor must agree to terms as described in the following subparagraphs:

a. The Contractor must agree to integrate its catalog of products/services into the e-procurement system. Once implemented, the Contractor must pay the transaction fees for orders placed against the Contract. In the event, the Contractor fails to make payments, the State may: (i) eliminate the Contractor from the system in accordance with an escalation and review process developed by the State and its e-procurement vendor and (ii) terminate the State Contract and award the Contract to the next acceptable bidder.

b. At the time that the Contractor will be required to offer products/services through the e-procurement system, the State will negotiate an equitable adjustment in unit prices to account for the expected supplier fees on orders placed on the system. The State will negotiate a single pricing structure for Contract purchases and (i) prohibit discounting off-system purchases or otherwise offering discriminatory pricing or preferences for orders placed off-system; and (ii) require the Contractor to manually track and report the ordering volume of off-system purchases of supplies/services.

E. **Contractor Requirements**

1. Contractor Responsibility

Contractor is solely responsible for fulfillment of the responsibilities under the terms and conditions of the Contract. The procuring agencies will issue purchase orders and make payments to only the named Contractors and/or the designated reseller, as specified by the prime Contractor.

2. Servicing Subcontractors

If using servicing subcontractors for the performance of local marketing, maintenance and/or technical support services in accordance with the terms and conditions of the Contract. Servicing subcontractors may not directly accept purchase orders or payments for products or services from procuring agencies under the terms and conditions of the Contract. The authorized procuring agency has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.

3. WSCA Administration Fee

The Contractor must pay a WSCA administration fee of one tenth of one percent (.10%) of the products and services purchased under this WSCA Contract in accordance with the terms and conditions of the Contract. The WSCA administration fee is not negotiable. This fee is due with the quarterly reports and will apply to purchases from each respective quarter.

4. Usage Reporting Requirement

Contractor must submit quarterly usage reports to the Contract Manager. Initiation and submission of the quarterly report is the responsibility of the Contractor without prompting or notification by the Contract Manager. The due dates of each quarterly Contract usage report are April 30, July 31, October 31 and January 31. Quarterly usage reports must contain total dollar usage figures for each WSCA member-state (and non-member state), per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option.

5. Change in Contractor Representatives

The State of Utah/WSCA reserves the right to require a change(s) in Contractor representatives if the assigned representative(s) is not, in the opinion of the State of Utah's Contract Manager, meeting its needs adequately.

6. Website Development and Maintenance

Contractor must maintain said website and keep the information current and correct on a timely basis.

7. Rollout and Marketing

Contractor may conduct a marketing effort as described in Contractor's proposal.

8. Right to Publish

Contractor must secure prior approval from the Contract Manager for permission to release any information that pertains to the potential work or activities relating to this Contract. Failure to adhere to this requirement may result in termination of the Contract for cause.

9. Contractor's Scope of Equipment and Services

Contractor may only fill Contract orders from the scope of equipment and services under Contract. Any sale made under this Contract by the Contractor of equipment, products or services not

explicitly covered by the scope of equipment, products and related services described in Section E may result in Contract termination for cause.

10. E-Rate Requirement

Contractor must participate in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the Contractor.

11. Freight Terms of Sale F.O.B. Destination, Freight Prepaid

Contractor will ship all products F.O.B. destination, freight included in the product price. Contractor may not include freight charges on invoices. Failure to comply with this requirement may result in Contract termination for cause.

12. Price Guarantee Period

Percentage discount depth from list is not subject to a "price increase request" that would result in a less attractive discount; discounts may only be adjusted by the Contractor to reflect a deeper discount(s). The discount is applied to manufacturer's current published list price schedule(s).

Maintenance and any training related costs are guaranteed for two years.

13. Product Revision Requests

Contractor must submit updated price list(s) upon publication, or any other product model changes, addition of new products, product upgrades or services in a timely manner.

Contractor agrees to delete obsolete and discontinued products from the Contract price list(s) on a timely basis. Major product model changes will be incorporated into the Contract as soon as possible after product introduction, to be offered at the same rate of discount for the appropriate price list and its discount.

14. Maintenance of Current Price List with Discount(s) Applied

Manufacturer's price list(s) must be tailored for WSCA with the WSCA Contract discount(s) applied; this must be created and maintained by the Contractor on an Internet website hosted by the Contractor, at no additional charge(s) to the State of Utah or WSCA. This website will be listed as a link from the WSCA website.

F. Contract Scope of Equipment and Related Services

Any sale by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described below may result in Contract termination for cause.

1. Discounts off Manufacturers Price List

a. Pricing Discounts

Category A	33%
Category B	33%
Category C	33%
Category D	33%
Category E	33%

All products are sold with a 12-month warranty, plus a 12-month Extended Warranty. WSCA Members may opt out of the Extended Warranty and receive an additional 2% discount.

PER PAGE 38, SECTION D.4.f. Price Proposal

b. Discount Structures based on volume

Extreme Networks has given WSCA a deeply discounted price structure on all product lines based on anticipated volumes. No further discounts will be given based on volume.

c. WSCA Member-State Coverage

Extreme Networks provides coverage in all of the WSCA Member States through a select group of authorized agents. These agents provide local, regional and national coverage. A list of these reseller agents can be obtained by mailing WSCAsupport@extremenetworks.com or by accessing the WSCA section of www.extremenetworks.com. Procuring Agencies may purchase Extreme Networks products and services through any of the agents listed.

PER EXHIBIT A OF THE EXTREME NETWORKS RESPONSE

2. Resolution of Customer Problems

Concerns regarding execution against this Contract should be first directed to the authorized resale agent who you are dealing with. If a response isn't received within 48 business hours, or if your concern isn't satisfactorily resolved, your concerns should be escalated to the WSCA primary representative or by submitting your concern to WSCAsupport@extremenetworks.com. If a response isn't received within 24 business hours, or if your concern isn't satisfactorily resolved, your concerns should be escalated the Extreme Networks Regional Manager for your area. If a response isn't received with 24 business hours or if your concern remains unresolved, your concerns should be escalated to the Extreme Networks Vice President of Americas Enterprise Sales. If a response isn't received within 24 business hours, your concerns should be escalated to the Extreme Networks Vice President of Americas Sales. If a response isn't received within 24 business hours or if your concerns remain unresolved, your concerns should be escalated to the Extreme Networks Senior Vice President of World Wide Sales. If a response isn't received within 24 business hours or if your concerns remain unresolved, your concerns should be

escalated to the Extreme Networks Chief Executive Officer. Due to the length of this Contract and the possibility of personnel changes in these roles, contact names and phone numbers should be obtained by calling Extreme Networks headquarters at 1.888.257.3000 or by mailing WSCAsupport@Extremenetworks.com. This process is in addition to the escalation procedures for technical support.

THIS TEXT IS NEW AND IN ADDITION TO EXHIBIT F, PAGE 11 OF THE EXTREME NETWORKS RESPONSE

3. Escalation Procedures

Extreme Networks Technical Assistance Centers (TACs) are the focal point of contact for post-sales technical and network-related questions or issues. The TAC will create a service request number and will manage all aspects of the service request until it is resolved.

Regional Support: North America, South America, Canada and Asia-Pacific

Toll free: 1-800-998-2408

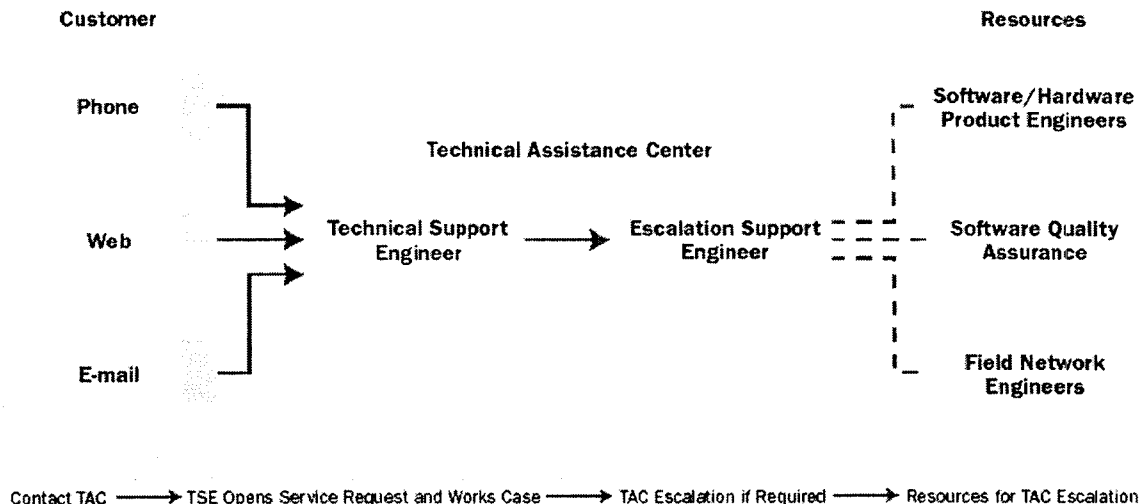
Direct phone: 408-579-2826

Web site: <http://www.extremenetworks.com/support/techsupport.asp>

E-mail: support@extremenetworks.com

Normal office hours: Monday–Friday, 7 a.m.–10 p.m. local standard time

Quick Reference Chart for Opening a Service Request and Escalation



Communications Guidelines

In an effort to keep you informed this chart lists the communications guidelines associated with different service request priorities.

Communications Guidelines

In an effort to keep you informed, this chart lists the communications guidelines associated with different service request priorities.

Priority	Definitions	Status	Definitions	Who gets notified?	How often?
P1 - Network Down	Critical customer network function is down and severely affecting the customer's business.	In Progress	TSE is working an active service request	<ul style="list-style-type: none"> Customer/Sales Customer Manager Global Service Manager 	1 time per 2 hour
		Wait Escalation	Case is awaiting a response from Support Escalation Team		1 time per 2 hour
P1 - Impaired	Part of customer critical network function is down and affecting customer business.	In Progress	TSE is working an active service request	<ul style="list-style-type: none"> Customer/Sales Customer Manager Global Service Manager 	1 time per business day
		Wait/Customer	TSE is waiting for customer action		1 time every 2 days
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time every 2 days
		Wait/Engineering	TSE is waiting for response from engineering		1 time every 2 days
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
P2 - Stable	Customer suffered critical network problem(s), but is now currently stable.	In Progress	TSE is working an active service request	<ul style="list-style-type: none"> Customer/Sales Customer Manager Global Service Manager 	1 time per business day
		Wait/Customer	TSE is waiting for customer action		1 time every 2 days
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time every 2 days
		Wait/Engineering	TSE is waiting for response from engineering		1 time every 2 days
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
P2 - Impaired	Part of the customer's network is not functioning properly, but it is not impacting customer's business operations	In Progress	TSE is working an active service request	<ul style="list-style-type: none"> Customer/Sales Customer Manager Global Service Manager 	2 times per week
		Wait/Customer	TSE is waiting for customer action		2 times per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time per week
		Wait/Engineering	TSE is waiting for a response from engineering		1 time per week
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		2 times per week

Priority	Definitions	Status	Definitions	Who gets notified?	How often?
P2 - Stable	Part of customer's network suffered from network problem(s) but is now currently stable.	In Progress	TSE is working an active service request	<ul style="list-style-type: none"> • Customer/Sales • Customer Manager • Global Service Manager 	1 time every 2 days
		Wait/Customer	TSE is waiting for customer action		2 times per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		2 times per week
		Wait/Engineering	TSE is waiting for response from engineering		1 time per week
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		2 times per week
P3 - Config	Customer have general configuration questions and have no network issue.	In Progress	TSE is working an active service request	• Customer/Sales	1 time per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support config clarification		1 time per week
		Wait/Engineering	TSE is waiting for config clarification		1 time per week
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait Escalation	Case is awaiting a response from Support Escalation Team		1 time per week
P4 - Info	Customer is requesting product information.	In Progress	TSE is working an active service request	• Customer/Sales	1 time per week

Extreme Networks Escalation Procedures

In the event you feel you are not receiving the support you require for any given issue, you can contact your local TAC and ask that the service request be escalated. When a service request is initially opened, the customer can define the priority of the case. If the TAC determines, at any given time, that the priority should be changed, the customer will be contacted.

Escalation Flow by Priority

TAC Escalation Responsibilities				
Priority 1		Priority 2		Priority 3 & 4
TSE manages case for 1 hour and 15 minutes before escalating to ESE →	ESE works case until resolved or determines that it is an engineering issue	TSE manages case for 1 hour and 15 minutes before escalating to ESE →	ESE works case until resolved or determines that it is an engineering issue	TSE manages case until resolution

Notification Schedule			
IMMEDIATE 1 HOUR 15 MINUTES	TAC Manager		
	Account Manager Sr. Operations Manager	TAC Manager	
4 HOURS	VP Customer Advocacy VP Sales VP Engineering	Account Manager Sr. Operations Manager	
8 HOURS		VP Customer Advocacy VP Sales VP Engineering	TAC Manager
OVER 8 HOURS	Communication schedule at this point is an agreement between customer and TAC.	Communication schedule at this point is an agreement between customer and TAC.	Communication schedule at this point is an agreement between customer and TAC.

PER EXHIBIT F, PAGE 11 OF THE EXTREME NETWORKS RESPONSE

4. Technical Services

PER EXHIBIT E OF THE EXTREME NETWORKS RESPONSE IN ADDITION TO RESPONSE IN SECTION 4.4.1.33-36 (Pg. 120-121), 4.4.1.44 (Pg. 127-128), 4.4.2.5 (Pg. 135), 4.4.2.10 (Pg. 137-138), AND 4.4.3 (Pg. 140)

Privileged Web Access

Extreme Networks leverages the power of the Internet to distribute and obtain information from you as an integral part of our service solution. This allows us to keep you informed on the latest updates and developments here at Extreme. The password-protected ExtremeWorks web site is a valuable resource that contains up-to-date information and technical documentation that enables you to quickly research issues and find answers to your questions.

Software release updates and upgrades - Download the latest software release updates and upgrades for our operational software anytime and rest assured that you have the most up-to-date information to ensure hardware performance.

Case logging and status updates – Open a case by phone or on the web. Check status of open cases and update information during the process. An automated notification system ensures that cases generated via the web are progressing towards resolution.

Network topology and device configuration storage – By accessing a password-protected storage location for uploading network topologies and device configurations to Extreme, only authorized users have access to confidential information while Extreme ensures quick problem resolution.

RMA requests – Extreme allows you to generate and track your return merchandise authorization (RMA) status. Obtain and track shipment information – date, carrier and waybill number, and the date the equipment was received.

Technical Assistance Center (TAC)

Extreme Networks provides global coverage 24x7x365 with TAC offices in Santa Clara, Calif. U.S.A., Utrecht, Holland and Tokyo, Japan. Extreme's multilingual TAC team provides personalized assistance via phone or email to quickly resolve any networking questions or issues. To ensure Extreme's perception of the problem is in-line with yours and to ensure that the problem resolution meets your expectations, you determine the priority of a reported problem.

PER SECTION 4.4.1.33-34 (Pg. 120) OF THE Extreme Networks RESPONSE

Advanced Hardware Replacement

The password-protected ExtremeWorks web site allows you to instantly submit a request for advanced hardware replacement at anytime to minimize network disruption. If your request is received by 2 p.m. Pacific Standard Time, the hardware is shipped the same day for certain ExtremeWorks Support Programs.

On-site Services

For customers who require a more comprehensive level of service and support, Extreme offers on-site support services available 7 days a week. With access to geographically-dispersed spares depots, a technical engineer will arrive on-site with parts to ensure timely problem resolution.

Professional Services

From initial concept to deployment, Extreme's customized services encompass end-to-end services to assist you in developing your network design strategy, expertly guiding you through planning and resource requirements and finally, implementing the plan.

Managed Deployment – Utilize an ExtremeWorks solutions architect to effectively develop and execute a customized hardware deployment plan that meets your network strategy. Each installation will be managed and coordinated by a solutions architect and includes design, staging, logistics, inventory control, implementation, documentation and training to help you transition to your new network.

Comprehensive Installation – Utilize the ExtremeWorks installation engineering team to effectively develop and execute a customized installation plan that meets your network requirements. Each installation will be managed and coordinated by an ExtremeWorks engineer, your designated primary contact during the installation process.

Resident Engineering – Available in increments of 1, 3, 6 and 12 months, an experienced ExtremeWorks technical engineer will be placed at your site to work on any project you need help with.

Project Management – Leverage our geographically dispersed team of highly qualified network engineers and project managers to ensure a successful network installation anywhere in the globe. This includes managing and coordinating all logistics, milestones and schedules for your project – from migration and deployment to ensuring that the configuration of your network meets your specifications.

Packaged consulting services

Extreme Networks EPS deliver proven expertise in cutting-edge technologies. With Extreme's proven set of techniques and resources, you will gain a competitive advantage by leveraging our proven solutions to help you optimize your network to meet your business objectives.

Network audit – Detailed audit and analysis of the current state of your network is the first step to obtaining network optimization.

Policy-Based Quality of Service (QoS) – In-depth analysis and recommendation for deploying advanced traffic management and bandwidth prioritization features such as Policy-Based QoS to match actual traffic patterns.

Multicasting – Strategy for deploying PIM-DM, PIM-SM, or DVMRP to best suit your streaming media requirements.

Voice over IP – Consulting strategy and recommendation to deploy voice-over-IP utilizing Extreme and best-of-breed technology.

Server load balancing – Design and implementation of Extreme's integrated server load balancing features to help maximize your server response while reducing equipment costs.

Security – Analysis of your security needs and recommendation on how to implement Extreme's advanced security features to meet those needs.

Interoperability Lab – Leverage and utilize the on-hands lab to ascertain ease of deployment, resolve integration concerns, compare differing solutions and assess performance and application thresholds.

PER 4.4.2.5 (Pg. 135-136) OF THE Extreme Networks RESPONSE

Training

ExtremeWorks Education Program offers comprehensive courses that provide a clear and thorough understanding of Extreme Networks broadband switching solutions. Numerous e-courses are available on-line in addition to formal certification programs. Courses are offered on-line, at authorized training centers and on-site. A list of these courses and the current training calendar can be found at <http://www.extremenetworks.com/Training/training.asp>.

PER 4.4.3.15-16 (Pg. 146-147) OF THE EXTREME NETWORKS RESPONSE

ATTACHMENT B
Standard Contract Terms and Conditions
Western States Contracting Alliance (WSCA)

1. PARTICIPANTS: Western States Contracting Alliance ("WSCA") is a cooperative group contracting consortium for state government departments, institutions and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. Obligations under this Contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting price agreement(s) will be permissive.

2. DEFINITIONS:

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting price agreement.

"Offer" or "Bid" or "Proposal" refers to the offer submitted in response to a solicitation, whether denominated as an invitation for bid, request for proposal, or otherwise. "Bidder" or "Offeror" similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.

"Permissive price agreement" means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the price agreement so long as applicable procurement statutes and rules are followed.

"Participating Addendum" means a bilateral agreement executed by the Contractor and a Participating State that clarifies the operation of the price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.

"Participating State" means a member of WSCA who has indicated its intent to participate as disclosed on the solicitation, or who subsequently signs a Participating Addendum where contemplated by the solicitation.

"Purchasing Entity" means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a Contract for the purchase of goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation.

3. QUANTITY ESTIMATES: Estimated quantities are informational and not to be construed as a warranty of accuracy of historical or anticipated volumes or a guarantee to purchase any amount.

4. SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the solicitation says "no substitute." Offers will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

5. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS: The Lead State reserves the right to accept or reject any or all bids or proposals, or parts of bids or proposals, and to waive informalities therein.

6. SAMPLES: Generally, when required, samples will be specifically requested in the solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated during testing, samples will be returned at an offeror's request, transportation collect.

7. CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

8. TAXES: Offered prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the Contractor shall add the sales taxes on the billing invoice as a separate entry.

9. MODIFICATION OR WITHDRAWAL OF BIDS AND PROPOSALS: Bids and proposals may be modified or withdrawn prior to the time set for receipt of bids or proposals. After the time set for receipt of bids or proposals, no proposal may be modified or withdrawn.

10. PATENTS, COPYRIGHTS, ETC:

(This term has been replaced. See Attachment A, Item D.7.A.)

~~The Contractor shall release, defend, indemnify, and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, process, patented or unpatented invention, article or appliance furnished or used in performance of this Contract.~~

11. AWARD: Multiple contracts may be awarded as a result of this solicitation. Awards in requests for proposals (competitive sealed proposals) shall be made to the responsible offeror(s) whose proposals are determined to be the most advantageous to the Participating States, taking into consideration price and the other evaluation factors set forth in the solicitation. Unless otherwise stated in the solicitation, an

award in a solicitation denominated as an invitation to bid will be made to the lowest responsive and responsible bidder(s) meeting specifications and all bid terms and conditions. The Participating States reserve the right to award items separately or by grouping items, or by total lot.

12. NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the solicitation, designed to limit independent bidding or competition.

13. TERMINATION: Unless otherwise stated in the solicitation, any Contract entered into as a result of this solicitation may be terminated by either party upon 60-days notice, in writing, prior to the effective date of the termination. Further, any Participating State may terminate its participation upon 30-days written notice, unless otherwise limited or stated in the special terms and conditions of the solicitation. Any termination under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order."

14. DEFAULT AND REMEDIES: (This term has been replaced. See Attachment A, Item D.7.B.)
~~A. Any of the following shall constitute cause to declare the Contract or any order under this Contract in default:~~

- ~~(1) Nonperformance of contractual requirements; or~~
- ~~(2) A material breach of any term or condition of this Contract.~~

~~B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.~~

~~C. If the default remains after the opportunity for cure, the non-defaulting party may:~~

- ~~(1) Exercise any remedy provided by law or equity;~~
- ~~(2) Terminate the Contract or any portion thereof, including any orders issued against the Contract;~~
- ~~(3) Impose liquidated damages, as specified in the solicitation or Contract;~~
- ~~(4) In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations.~~

15. LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions in the solicitation, the special terms and conditions shall govern.

17. REPORTS: The Contractor shall submit quarterly reports to the Lead State Contract administrator, and upon request to any Participating State, showing the quantities and dollar volume of purchases by each Purchasing Entity.

18. HOLD HARMLESS: (This term has been replaced. See Attachment A, Item D.7.C.)
~~The Contractor shall release, defend, indemnify and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the Contractor, its employees or subcontractors or volunteers.~~

19. ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

20. GOVERNING LAW AND VENUE: This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

21. DELIVERY: (This term has been replaced. See Attachment A, Item D.7.D.)
~~The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.~~

22. WARRANTY: (This term has been replaced. See Attachment A, Item D.7.E.)
~~As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this Contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this Contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the PURCHASING ENTITY apply to this Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this Contract unless otherwise specified and mutually agreed upon elsewhere in this Contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims~~

that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the PURCHASING ENTITY has relied on the Contractor's skill or judgment to consider when it advised the PURCHASING ENTITY about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the PURCHASING ENTITY has not been warned. Remedies available to the PURCHASING ENTITY include the following: the Contractor will repair or replace (at no charge to the purchasing entity) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the PURCHASING ENTITY may otherwise have under this Contract with respect to defects.

23. AMENDMENTS: The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Contract Administrator of the Lead State.

24. ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Contract Administrator of the Lead State.

25. NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This Contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

26. SEVERABILITY: If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

27. INSPECTIONS: (This term has been replaced. See Attachment A, Item D.7.F.)
Goods furnished under this Contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in compliance with proposal specifications, the Purchasing Entity may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a

~~time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Purchasing Entity's rights including the rights and remedies under the Uniform Commercial Code.~~

28. PAYMENT: Payment for completion of a Contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a Purchasing Entity's "Purchasing Card".

29. FORCE MAJEURE: (This term has been replaced. See Attachment A, Item D.7.G.)
~~Neither party to this Contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this Contract after determining such delay or default will reasonably prevent successful performance of the Contract.~~

30. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the Purchasing Entity agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

31. FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of receipt of bids or proposals. Prices must remain firm for the full term of the Contract.

32. EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

33. PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in preparation of the bid or proposal.

34. CERTIFICATION REGARDING CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any Participating State to any officer or employee of WSCA or Participating States to secure favorable treatment with respect to being awarded this Contract.

35. INDEPENDENT CONTRACTOR: Contractor shall be an independent Contractor, and as such shall have no authorization, express or implied to bind the Participating States to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

36. POLITICAL SUBDIVISION PARTICIPATION: Participation under this Contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA participating states shall be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

37. E-RATE COMPLIANCE: Contractor agrees to participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, and in accordance with any State and local government E-rate related requirement(s) of the authorized procuring agency.

38. CERTIFICATION REGARDING DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract) by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by WSCA.

39. RECORDS ADMINISTRATION: The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. These records will be retained by the Contractor for at least four years after the Contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

40. AUDIT OF RECORDS: The Contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

41. PRICES AS CEILING: Price agreement prices represent ceiling prices for the supplies and services priced in the price agreement. The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity, and the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders.

42. STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS: Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their intent to enter into a price agreement and, except where Attachment A or the solicitation requires execution of a Participating Addendum, are considered Participating States for purposes of this solicitation and the resulting Contract. Attachment A of the Solicitation includes any significant State-specific provisions required by the laws, regulations, or procurement practices of the State(s).

Additional States may be added with the consent of the Contractor and the Lead State (on behalf of the WSCA Participating States) through execution of a Participating Addendum.

Revision Date: April 2001